

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

ABDUL HOWARD,	)	
	)	
Plaintiff,	)	Case No.: 2:18-cv-01178-GMN-VCF
vs.	)	
	)	<b>ORDER</b>
ARAMARK et al.,	)	
	)	
Defendants.	)	
	)	

Pending before the Court are Plaintiff Abdul Howard’s (“Plaintiff’s”) Motion to Dismiss, (ECF No. 5), and Motion for Leave to Re-file Complaint, (ECF No. 6). Defendants did not file a response.

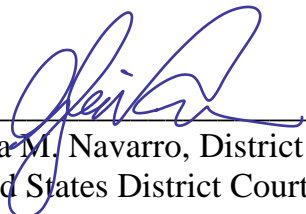
Regarding Plaintiff's Motion to Dismiss, (ECF No. 5), Plaintiff requests the Court to dismiss his Complaint pending the resolution of his state court case. (*See* Mot. Dismiss at 2, ECF No. 5). On December 21, 2018, the Court granted Plaintiff's first Motion to Dismiss, (ECF No. 3), and dismissed the action in its entirety without prejudice. (*See* Order, ECF No. 4). Because the Court already granted Plaintiff's first request to dismiss, there is no pending complaint to dismiss. Accordingly, the Court hereby denies as moot Plaintiff's Motion to Dismiss.

Regarding Plaintiff’s Motion for Leave to Re-file Complaint, (ECF No. 6), Plaintiff requests the Court allow Plaintiff to re-file his previously dismissed federal suit “on or about November of 2019.” (*See* Mot. Leave Re-File Compl. at 1–2, ECF No. 6). Plaintiff’s Motion explains that a state court, in an unrelated proceeding, erroneously granted Defendant Sheriff Lombardo’s refusal to serve Plaintiff’s Complaint upon himself under the Nevada Rules of Civil Procedure. (*See* Mot. Leave Re-File Compl. at 2). Because his state court case will not

1 proceed, Plaintiff thus requests the Court to re-file/reopen his Complaint in federal court. (*Id.*).  
2 While the Court has discretion to grant relief from an order on the grounds of “mistake,  
3 inadvertence, surprise or excusable neglect,” the state court’s alleged error is unrelated to the  
4 Court’s prior Order, (ECF No. 3), granting dismissal of the case. *See* Fed. R. Civ. P. 60(b)(1).  
5 Accordingly, as Plaintiff has provided the Court with no other reason why this case should be  
6 reopened, the Court denies Plaintiff’s Motion for Leave to Re-file Complaint.

7 **IT IS HEREBY ORDERED** that the Court **DENIES** the Motion to Dismiss, (ECF No.  
8 5), and Motion for Leave to Re-file Complaint, (ECF No. 6).

9 **DATED** this 14 day of December, 2020.

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13 Gloria M. Navarro, District Judge  
14 United States District Court  
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